## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

MARK CAMPBELL and	)
SHERRIE CAMPBELL,	)
Plaintiffs,	) Docket No.: 3:19-cv-00151
v.	) Chief Judge Crenshaw ) Magistrate Judge Frensley
CHEATHAM COUNTY SHERIFF'S	) Magistrate Judge Prensiey
DEPARTMENT,	) JURY DEMAND
MUNICIPAL GOVERNMENT OF	)
CHEATHAM COUNTY,	)
JAMES DOUGLAS FOX,	)
CHRISTOPHER AUSTIN,	)
MIKE BREEDLOVE,	)
Defendants.	) )

## **DECLARATION OF ROBYN BEALE WILLIAMS**

The undersigned declarant hereby says:

- 1. I am over 18 years of age and was retained to act as the attorney of record for defendants James Douglas Fox and Christopher Austin in this matter. I have knowledge of the matters outlined below. I was also present and witnessed the conclusion of the criminal trial of Mr. Campbell in January 2020.
- 2. Plaintiff disclosed Attorney Eric Lockert as a witness in his Responses to Defendant Austin's First Set of Interrogatories in this case. Recently, I attempted to contact Mr. Lockert to obtain possible dates to circulate for Mr. Lockert's deposition in an attempt to accommodate his calendar. Mr. Lockert did not provide dates. Instead, Plaintiff's counsel contacted me indicating that any communication between Mr. Campbell and Mr. Lockert would be protected by privilege and not discoverable. He

further relayed that they, along with Mr. Lockert, objected to the deposition. (Email attached as Exhibit A).

- 3. I was out of the office but apologized if I had misunderstood the disclosure of Mr. Lockert. I also told Mr. Morris that I would look into the matter. Mr. Morris then responded that if the plaintiffs called Mr. Lockert it would be related to the phone call he received on the evening of the shooting and he offered to provide an affidavit from Mr. Lockert on this point. However, Mr. Morris continued in his position that a deposition would be inappropriate.
- 4. The next day, in an attempt to clarify the plaintiff's position, I sent another email specifically stating that if the plaintiff was claiming that the phone call during the shooting was privileged and the plaintiff did not intend to call Mr. Lockert as a witness in the case, then I did not wish to depose him. However, I also stated that since Campbell was listed as a witness by the plaintiffs and Mr. Campbell discussed the phone call during his own deposition, then I assumed that the communication was not privileged or was one which the plaintiff wished to waive. I asked for a clarification on this point in order to determine whether Plaintiff did actually intend to rely upon Mr. Lockert as a witness at trial. Again, in response, Mr. Morris disclaimed that the phone communication was privileged and offered to provide an affidavit of Mr. Lockert's limited knowledge.
- 5. At that time, given that no privilege was claimed and the criminal matter was concluded, I provided dates to depose Mr. Lockert via remote means. However, Mr. Morris responded that no deposition of Mr. Locket would occur without an order from the court. In an effort, to comply with the local rule, I stated that it was my belief that the Shelton Rule did not apply to the case at hand, but offered to review any authority

that Mr. Morris had to the contrary. Mr. Morris did provide authority on his point. However, the authority did not speak to the issue in dispute, particularly a situation in which the party opposing the deposition actually intends to rely upon the witness for whom they also claim the applicability of the Shelton test.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19th day of June, 2020.

## Respectfully submitted,

/s/Robyn Beale Williams

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 19th day of June 2020, a true and correct copy of the foregoing has been forwarded via the U.S. District Court Electronic Filing System:

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/s/ Robyn Beale Williams

Robyn Beale Williams